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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,619	08/07/1999	MICHAEL DAVID ERLANGER	3	8285

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Shearman & Sterling  
Intellectual Property Docketing  
599 Lexington Avenue  
New York, NY 10022

EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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3624

20

DATE MAILED: 10/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/270619

Applicant(s)

E. Langer

Examiner

Ahne, g

Group Art Unit

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 9/23/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 39-139 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 39-139 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Response to Continued Prosecution Application(CPA)*

1. This communication is issued in response to applicant's Continued Prosecution Application(CPA)(Paper #16) and Supplemental Amendment B(Paper #17) filed 9/23/02.
2. Claims 1-38 and 140-157 were cancelled. Independent claims 40,66,69,78,94,98 were amended.
3. Claims 39-139 are now pending.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 39-139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser(U.S. Pat. 5,995,947) in view of Zandi(US Pat. No: 5966,699) and further in view of Gottesman(US Pat. No: 6,049,782) and further in view of IMEX(February, 1999).

Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq), and

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comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq). Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq). receiving loan sale offers (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), receiving offers to buy a loan (e.g., column 1, line 15 et seq; column 2, line 25 et seq), receiving a loan solicitation (e.g., at S221) (e.g., column 9, line 36 et seq), comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq). Fraser et al also disclose price decrease as fee measure increases (e.g., loan amount) (e.g., column 14, line 53 et seq), receiving loan solicitations (e.g., at S221) (e.g., column 9, line 36 et seq), compiling second statistic set (e.g., column 2, line 37 et seq; column 12, line 15 et seq), loan offers and bids (e.g., column 2, line 20 et seq), outputting indicium of loan seeker identify to lender (e.g., column 13, line 50 et seq), receiving an offer to buy a loan (e.g., a bid) (e.g., column 13, line 4 et seq), earning a fee (e.g., column 14, line 49 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and

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lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq). Fraser et al disclose a method, including receiving lender criteria (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), receiving an offer to sell (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), lending and trading (e.g., column 1, line 16 et seq), and variable fee structure (e.g., column 14, line 49 et seq). Fraser et al do not disclose specific reduced fee structure based on coordinated lending and trading by a party. To the extent that such a fee structure would not have been obvious to one of ordinary skill in the art at the time of the invention (e.g., to encourage and reward multiple transactions by users, to facilitate transaction pricing of users), Gottesman et al, U.S. patent 6,049,782 disclose a method including outputting an indicium that a first portion of a fee is credited against a second measure of fees based on a user's maintenance of multiple business/transactional relationships with a financial institution(checking account, savings account, CD's, mortgages)(col 2 line 7 et seq). Volume discount of service fees provide and improved means to encourage and reward customer/user loyalty(Gottesman(col 3 line 20 et seq). IMEX teaches the trading of loans on an exchange providing access to lenders who best match the requirements of a mortgage broker(page 2) as well as addressing origination and secondary trading on the exchange among market participants(page 3)(page 5)(page 8) with search engine qualifying software(page 11) and

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underwriting parametric definitions (pages 11-14).Zandi further teaches the auctioning of loans on the secondary market on a computer network(Abstract)(col 2 lines 12-67).It would have been obvious to one skilled in the art at the time of the invention to combinew Fraser in view of Gottesman to teach part of the above.The motivation to combine is to teach a system for optimizing a financial customer's portfolio through relationships at a financial institution as a bank, one of which is the loan requirement through the use of search engines on all aspects of a client's account as enunciated by Gottesman(col 3 line 20-col 4 line 65). Furthermore it would also have been obvious to combine Fraser in view of Gottesman and further in view of IMEX to teach part of the above. The motivation to combine is to teach a loan trading auction system for market participants including clients for loans which incorporates underwriting(pagesd 11-14) as enuinciated by IMEX.And it would also have been obvious to combine Fraser in view of Gottesman in view of IMEX and further in view of Zandi to teach all of the above. The motivation to combine is to teach an electronic loan auction system for market participants using a network which incorporates secondary loan trading as enunciated by Zandi(Abstract)(col 2 lines 12-67)(Fig 4A)(Fig 4B).

### *Conclusion*

6. **THIS ACTION IS MADE NON-FINAL.**

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7. Any questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday

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through Friday at 703-306-5844. If attempts to contact the examiner are unsuccessful, the examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 2100 or this Art Unit is (703)-308-6296 or 6306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-305-3900.

GRA

October 21, 2002

